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Attorneys for Defendants

PERFORMANCE FOOD GROUP, INC. and VISTAR TRANSPORTATION, LLC

and *Specially Appearing* Defendant ROMA FOOD ENTERPRISES, INC.

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

JORGE PEREZ, on behalf of himself, all  
others similarly situated, and the general  
public,

Plaintiff,

vs.

PERFORMANCE FOOD GROUP, INC., a  
Colorado corporation; VISTAR  
TRANSPORTATION, LLC, a Delaware  
limited liability company; ROMA GOURMET  
FOOD ENTERPRISES OF CALIFORNIA,  
INC., a California corporation, and DOES 1-  
50, inclusive,

Defendants.

CASE NO. 3:15-cv-02390-HSG

**JOINT STIPULATION AND ORDER TO:**

- 1. EXTEND MEDIATION COMPLETION DEADLINE**
- 2. FURTHER MODIFY BRIEFING AND HEARING SCHEDULE ON DEFENDANTS' MOTION TO DISMISS AND/OR STRIKE PLAINTIFF'S SECOND AMENDED COMPLAINT [DKT. #36]**
- 3. FURTHER EXTEND TIME FOR SPECIALLY APPEARING DEFENDANT ROMA FOOD ENTERPRISES, INC. TO RESPOND TO SECOND AMENDED COMPLAINT**

**RECITALS**

**Pleadings**

WHEREAS, on April 20, 2015, Plaintiff Jorge Perez (“Plaintiff”) filed a Complaint against Performance Food Group, Inc. (“PFG”), Vistar Transportation, LLC (“Vistar”) and Roma Gourmet Food Enterprises of California, Inc. in the Superior Court of the State of California in and for the County of Alameda (the “State Court Action”) [Dkt. #1-1]; and

WHEREAS, on May 18, 2015, Plaintiff filed an Amendment to Complaint in the State Court Action to substitute DOE 1 with Roma Food Enterprises, Inc. [Dkt. #1-7]; and

WHEREAS, on May 29, 2016, Defendants PFG and Vistar removed the State Court Action to this United States District Court [Dkt. #1]; and

WHEREAS, on June 11, 2015, Plaintiff filed a First Amended Complaint (“FAC”) in this action [Dkt. #8]; and

WHEREAS, on April 13, 2016, Plaintiff filed the operative Second Amended Complaint (“SAC”) in this action [Dkt. #29]; and

**Mediation Completion Deadline**

WHEREAS, on April 26, 2016, the Court entered an Order Selecting ADR Process and adopted the parties’ proposed mediation completion deadline of August 24, 2015 [Dkt. #34]; and

WHEREAS, the parties have met and conferred and selected David Rotman to serve as the mediator in this case; and

1  
2 WHEREAS, the first date Mr. Rotman and the parties have available to attend a mediation  
3 is September 19, 2016; and  
4

5 Briefing Schedule on Motion to Dismiss SAC  
6

7 WHEREAS, on May 11, 2016, Defendants PFG and Vistar filed a Motion to Dismiss  
8 and/or Strike Plaintiff's Second Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6) and/or  
9 12(f) (the "Motion to Dismiss"), which is set to be heard on August 25, 2016 (Dkt. #36);  
10

11 WHEREAS, on May 24, 2016, PFG, Vistar and Plaintiff filed a Joint Stipulation to  
12 Continue Briefing Schedule on Defendants' Motion to Dismiss and/or Strike Plaintiff's SAC [Dkt.  
13 #37] (the "Stipulation to Continue Briefing Schedule"); and  
14

15 WHEREAS, on May 25, 2016, the Court approved the Stipulation to Continue Briefing  
16 Schedule and extended the deadline for Plaintiff to file his Opposition to Defendants' Motion to  
17 Dismiss to June 8, 2016 and extended the deadline for Defendants PFG and Vistar to file their  
18 Reply in support of the Motion to Dismiss to July 13, 2016 [Dkt. #39]; and  
19

20 Roma Food Enterprises, Inc.'s Deadline to Respond to SAC  
21

22 WHEREAS, on May 10, 2016, Plaintiff had a process server deliver to Defendant PFG's  
23 agent for service of process in Denver, Colorado a state court Summons and copies of the  
24 Complaint, FAC and SAC ostensibly to effectuate service on "Roma Food Enterprises, Inc."; and  
25

26 WHEREAS, pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i) and the Affidavit of Service [Dkt.  
27 #37], specially appearing Defendant Roma Food Enterprises, Inc.'s deadline to respond to  
28 Plaintiff's SAC or otherwise move to quash service of process and/or to dismiss for defective

1 service was May 31, 2016; and

2  
3 WHEREAS, on May 31, 2016, pursuant to Local Rule 6-1, the parties filed a Joint  
4 Stipulation to Extend Time for Specially Appearing Defendant Roma Food Enterprises, Inc. to  
5 Respond to SAC By 21 Days to and including June 21, 2016 (the "Roma Stipulation") [Dkt. #40];  
6 and

7  
8 WHEREAS, the parties wish to preserve the resources of the Court and the parties and to  
9 complete mediation prior to engaging in further motion practice related to the Motion to Dismiss  
10 and specially appearing Defendant Roma Food Enterprises, Inc.'s contemplated motion to quash  
11 service of process and/or to dismiss for defective service and, therefore, agree and are stipulating  
12 herein, subject to the Court's approval, to:

13  
14 (1) Extend the mediation completion deadline from August 24, 2016 to September 30,  
15 2016; and

16  
17 (2) Further modify the briefing and hearing schedule on the pending Motion to Dismiss  
18 such that (a) Plaintiff's Opposition thereto is due on October 10, 2016; (b)  
19 Defendants' Reply in support thereof is due on October 17, 2016; and (c) the  
20 hearing on the Motion to Dismiss is continued to November 3, 2016; and

21  
22 (3) Further extend the time for specially appearing Defendant Roma Food Enterprises,  
23 Inc. to answer or otherwise serve and file any motions or other pleadings  
24 responsive to Plaintiff's SAC, including without limitation a motion to quash  
25 service of process and/or to dismiss for defective service, to October 10, 2016.

**STIPULATION**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff and Defendants PFG and Vistar and specially appearing Defendant Roma Food Enterprises, Inc., through their respective undersigned counsel, that:

1. The mediation completion deadline be extended from August 24, 2016 to September 30, 2016; and
2. The deadline for Plaintiff to file his Opposition to Defendants' Motion to Dismiss be extended from June 8, 2016 to and including October 10, 2016; and
3. The deadline for Defendants PFG and Vistar to file their Reply in support of the Motion to Dismiss be extended from July 13, 2016 to and including October 17, 2016; and
4. The hearing on the Motion to Dismiss be continued from August 25, 2016 to November 3, 2016; and
5. Specially appearing Defendant Roma Food Enterprises, Inc.'s time within which to answer or otherwise serve and file any motions or other pleadings responsive to Plaintiff's SAC in this action, including without limitation a motion to quash service of process and/or to dismiss for defective service, be extended from June 21, 2016 to and including October 10, 2016; and
6. By entering into this Stipulation, the parties do not waive and expressly reserves all claims, defenses and challenges to this action, including without limitation those of specially appearing Defendant Roma Food Enterprises, Inc. set forth in Paragraph

5, above.

IT IS SO STIPULATED AND AGREED.

DATED:

SETAREH LAW GROUP

By: /s/ Shaun Setareh  
Shaun Setareh, Esq.  
Thomas Segal, Esq.

Attorneys for Plaintiff  
JORGE PEREZ

DATED:

McGUIREWOODS LLP

By: /s/ Sylvia Kim  
Matthew C. Kane, Esq.  
Sabrina A. Beldner, Esq.  
Sylvia J. Kim, Esq.

Attorneys for Defendants PERFORMANCE  
FOOD GROUP, INC. and VISTAR  
TRANSPORTATION, LLC and *Specially*  
*Appearing* Defendant ROMA FOOD  
ENTERPRISES, INC.

I attest that all signatories listed above, and on whose behalf this Stipulation is submitted, have concurred in and authorized the filing of the Stipulation.

/s/ Shaun Setareh

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATE: June 22, 2016

  
HON. HAYWOOD S. GILLIAM, JR.  
UNITED STATES DISTRICT JUDGE